



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

October 19, 1984

The Honorable Stephen D. Neely
Pima County Attorney
900 Pima County Courts Building
111 West Congress Street
Tucson, AZ 85701

Re: I84-151 (R84-171)

Dear Mr. Neely:

You have asked us to review your opinion regarding the method to be used in the casting of absentee ballots.^{1/} Specifically, you were asked whether absentee ballots could only be provided and voted by mail. We concur in your conclusion that not only may absentee ballots be provided and voted by mail, but they also may be provided in person and voted in person at the County Recorders' offices during the time period for absentee balloting.

As you correctly point out, the provisions of A.R.S. § 16-542.B must be read in conjunction with the remaining provisions of that section and the provisions of A.R.S. § 16-548. A.R.S. § 16-548 provides as follows:

1. You have asked for an opinion by this office pursuant to A.R.S. § 41-193.A.7 because of the statewide ramifications of this issue. This opinion is to memorialize the advice which we have previously provided to you by phone.

The Honorable Stephen D. Neely
October 19, 1984
Page 2

The absentee voter shall make and subscribe to the application and ballot affidavit before an officer authorized by law to administer oaths. In the presence of the officer, but no other person, the absentee voter shall then mark his ballot in such a manner that his vote cannot be seen. The absentee voter shall fold the ballot, if a paper ballot, so as to conceal the vote then deposit the voted ballot in the envelope provided for that purpose, which shall be securely sealed, signed by the officer, and together with the application, delivered or mailed to the county recorder or other officer in charge of elections of the political subdivision in which the elector is registered.

[Emphasis added]. From this language, we can conclude that the Legislature intended to allow absentee voting to occur either by mail or in person.

Our conclusion is further bolstered by the fact that the practice of allowing absentee voters to present themselves in person at the County Recorder's office and to cast ballots while there has been common in Arizona for years and has never been challenged. That longstanding administrative interpretation which has gone unchallenged for years is a strong indication of the Legislature's intent that absentee voting in that manner is permissible. Morris v. Arizona Corp. Commission, 24 Ariz. App. 454, 539 P.2d 928 (1975).

Yours very truly,



BOB CORBIN
Attorney General

BC:JBS:mch